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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,739	06/27/2003	Frank J. Land	015452-029	7582

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EXAMINER

HURLEY, SHAUN R

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,739

Applicant(s)

LAND, FRANK J.

Examiner

Shaun R Hurley

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 24 September 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because it fails to conform to standard practice. The IDS filed contains two previously initialed 892's and two checked on 1449's. As such, Examiner has no idea how to respond to such since they already have initialing/checking, which does not allow Examiner to properly respond. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Priority

2. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification of in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regards to claim 21, the preamble of the claim refers to the product as a double corespun yarn, yet the claim only teaches a method of forming a corespun yarn. As such, it is unclear what Applicant is attempting to claim. Since the preamble teaches a double corespun yarn, it would seem that the second sheath must be taught in claim 21. If this is not so, Applicant is instructed to explain to Examiner how this "double" is formed in claim 21.

Claim Rejections - 35 USC § 103

5. Claim 21, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al (5701730) in view of Costales et al (5619848).

Kennedy teaches a method of forming a corespun yarn comprising feeding a core comprising a continuous filament fiberglass and a continuous filament synthetic as a pair (Column 2, lines 58-60), and subsequently spinning a sheath of sliver staple fibers around the core (Column 2, lines 61-62). While Kennedy teaches such a method, including false twisting, he fails to specifically teach the false twisting method of drafted air jet spinning, which Costales teaches, including drafting a fiber sliver with roller pairs, feeding the core, and swirling the sliver fibers about the core by means of counter twisting air jets (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made, in this instance a

Art Unit: 3765

spinning technician, to utilize such a method of false twisting the yarn of Kennedy. Kennedy teaches a sheathed core of glass and synthetic covered with a false twisted staple fiber sheath. While his only example method uses DREF 3 spinning, the ordinarily skilled artisan would have understood to use drafted air jet spinning, so as to reduce production costs. Likewise, using the method as taught by Costales would continue to provide the necessary results desired by Kennedy, including the provision of "a continuous filament first core of a refractory fiber, a second core of another continuous filament yarn and an outer sheath of staple fibers wrapped about said first and second cores" (Column 1, lines 51-54).

6. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kennedy et al in view of Costales et al as applied to claim 21 above, and further in view of Montgomery et al (5033262).

The combination of Kennedy in view of Costales essentially teaches the invention as discussed above, but fails to specifically teach providing a second sheath, which Montgomery teaches (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made, in this instance a spinning technician, to reinsert the corespun yarn of the combination into the process, so as to add a second well-known sheath for core protection. The ordinarily skilled artisan would have understood the benefits of a second sheath, and with the knowledge of the combination above, known to provide such a second sheath.

Double Patenting

7. Claims 21 and 22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 6, 7, 22, 23 of U.S. Patent No. 6553749. Although the conflicting claims are not identical, they are not patentably distinct from

Art Unit: 3765

each other because both teach the method of providing drafted sliver, introducing plied core of glass and synthetic, wrapping, then double wrapping by way of air jets.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tremblay et al (4225442), Foy et al (H1225), Proctor (5383331), Tolbert et al (5540980), Proctor (5568719), Handermann et al (6620212), and Baker Jr. (2003/0205041) all teach what is well known in the art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (703) 605-1236. The examiner can normally be reached on Mon - Fri, 6:30am - 3:00pm, off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (703) 305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRH
01 March 2004


JOHN J. CALVERT
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